

ARTICLES  
Touching The  
UNION  
OF  
England *and* Scotland.

ARTICLES

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UNION

OF

England and Scotland.

A

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DISCOURSE  
OF THE  
Happy Union  
OF THE  
KINGDOMS  
O F  
England & Scotland :

Dedicated in Private to

King JAMES I.

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By FRANCIS Lord BACON.

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L O N D O N,

Printed by *Tho. Milbourn*, and Sold by *A. Baldwin*  
in *Warwick-Lane*, 1700.

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DISCOVERIES

OF THE

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## A

*Discourse of the Happy Union, &c.*

**O**F this Discourse there is Two Parts: The First Part is Philosophical, and there needs this only to be Noted.

There are Two several Kinds of Policy (says he) in Uniting and Conjoyning of States and Kingdoms: The one, to retain the Ancient Form still Severed, and only Conjoyn'd in Sovereignty: The other, to superinduce a New Form agreeable and convenient to both. The former hath been usual, and is easie: But the Latter, more happy. Of the Form whereby States and Kingdoms are perfectly United, there are (besides the Sovereignty it self) Four in Number, *viz.* Union in Name, Union in Language, Union in Laws, and Union in Employments.

In his Second Part, waving his Complements to the King, I will come to the Business, and thus he writes.

My Purpose is only to break this Matter of the Union into certain short *Articles* and *Questions*, and to make a certain kind of *Anatomy* or *Analysis* of the Parts and Members thereof; not that I am of Opinion that all the *Questions* which I now shall open, were fit to be in the Consultation of the *Commissioners* propounded: For I hold nothing so great an Enemy to good Resolution, as the making of too many Questions, specially in *Assemblies*, which consist of many. For *Princes*, for avoiding of Distraction, must take many things by way of Admittance; and if *Questions* must be made of them, rather to suffer them to arise from others, than to Grace them, and Authorize

them as propounded for themselves. But unto your *Majesties* private Consideration, to whom it may better sort with me rather to speak as a *Remembrancer*, than as *Counsellors*, I have thought good to lay before you all the *Branches*, *Lineaments*, and *Degrees* of this *Union*, that upon the *View* and Consideration of them and their Circumstances, your *Majesty* may the more clearly discern, and more readily call to mind which of them is to be embraced, and which to be rejected: And of these, which are to be accepted, which of them to be presently to be proceeded in, and which to be put over to further time; and again which of them shall require *Authority of Parliament*, and which are fitter to be effected by your *Majesties Royal Power and Prerogative*, or by other Policies or Means: And Lastly, which of them is liker to pass with Difficulty and Contradiction, and which with more Facility and Smoothness.

First therefore to begin with that Question that I suppose will be out of question.

Whether it be not meet, that the Statutes, which were made touching *Scotland*, or the *Scottish Nation*, while the *Kingdoms* stood severed, be Repealed?

It is true, there is a Diversity in these: For some of these *Laws* consider *Scotland* as an Enemy Country; others *Laws* consider it as a Foreign Country only: As for Example, the Law of *Rich. 2. Anno 7th.* which prohibiteth all Armour or Vidual, to be carryed to *Scotland*: And the Laws of *7th. of K. H.* the 7th. that Enacteth all the *Scottish Men* to depart the Realm within a Time prefix'd: Both these *Laws*, and some others, respect *Scotland* as a Country of Hostility; But the Laws of *22. of Edward 4th.* that endureth *Barwick* with the Liberty of a *Staple*, where all *Scottish Merchandizes* should resort that should be uttered for *England*: And likewise all *English Merchandizes* that should be uttered for *Scotland*. This Law beholdeth *Scotland*, only as a *Foreign Nation*; And not so much neither; For there

have

Statutes concerning *Scotland*, and the *Scottish Nation*.

have been erected *Staples*, in Towns of *England*, for some Commodities, with an Exclusion and Restriction of other Parts of *England*.

But this is a Matter of the least Difficulty; your Majesty shall have a *Calendar* made of the *Laws*, and a *Brief* of the Effect: And so you may judge of them: And the like, or Reciproque is to be done by *Scotland*, for such *Laws* as they have concerning *England* and the *English Nation*.

Laws Customs  
Commissions,  
Officers, of the  
Borders or  
Marches.

The Second Question is, what *Laws*, *Customs*, *Commissions*, *Officers*, *Garrisons*, and the like, are to be put down, discontinued, or taken away, upon the *Borders* of both *Realms*.

This *Point*, because I am not acquainted with the *Orders* of the *Marches*, I can say less.

Herein falleth that *Question*, whether that the *Tenants*, who hold their *Tenant Rights* in a greater Freedom and Exemption, in Consideration of their Service upon the *Borders*; And that the *Countries* themselves, which are in the same respect discharged of *Subsidies* and *Taxes*, should not now be brought to be in one degree with other *Tenants* and *Countries*; *Nam cessante causa tollitur Effectus*; where-in in my Opinion, some time would be given; *Quia adhuc eorum Messis in Herba est*: But some present Ordinance would be made to take effect at a future time, considering it is one of the greatest *Points* and *Marks* of the Division of the *Kingdoms*. And because Reason doth dictate, that where the principal Solution of Continuity was, there the Healing and Consolidating Plaister should be chiefly applied; There would be some further Device, for the utter and perpetual Confounding of those *Imaginary Pounds*, (as your Majesty termeth them;) And therefore it would be considered, whether it were not convenient to Plant and Erect, at *Carlisle*, or *Barwick*, some *Counsel*, or *Court* of Justice, the Jurisdiction whereof, might extend part into *England*, and part into *Scotland*; With a *Commission*,

not

not to proceed precisely, or merely, according to the *Laws* and *Customs*, either of *England* or *Scotland*, but mixtly, according to Instruction, by your Majesty to be set down, after the Imitation, and President of the *Counsel* of the *Marches* here in *England*, Erected upon the *Union* of *Wales*.

Further Union  
besides the  
Removing of  
Inconvenient  
and dissenting  
Laws and  
Customs.

The Third *Question* is that which many will make a great *Question* of, though perhaps your Majesty will make no *Question* of it; And that is, Whether your Majesty should not make a stop or stand here, and not to proceed to any further *Union*, contenting your self with the two former *Articles* or *Point*.

For it will be said, That we are now well, (thanks be to God;) And your Majesty, and the *State* of neither *Kingdom* is to be repented of, And that it is true which *Hippocrates* saith; That, *Sana Corpora difficile medicaciones ferunt*: It is better to make Alterations in sick Bodies, than in sound. The *Consideration* of which *point*, will rest upon these two *Branches*: What *Inconveniencies* will ensue with time, if the *Realms* stand as they are, divided, which are yet not found nor sprung up. For it may be the sweetness of your Majesties first entrance, and the great Benefit that both *Nations* have felt thereby, hath covered many *Inconveniencies*; which nevertheless be your Majesties Government, never so gracious and Politick, Continuance of time and the Accidents of time may breed and discover, if the *Kingdoms* stand divided.

The second *Branch* is, allow no manifest or important Peril or *Inconvenience* should ensue of the continuing of the *Kingdoms* divided, yet on the other Side, whether that upon further *Uniting* of them, there be not like to follow that Addition and encrease of Wealth and Reputation, as is worthy your Majesties Vertues and Fortune, to be the Author and Founder of, for the advancement and Exaltation of your Majesties Royal Posterity in time to come.

But admitting that your Majesty should proceed to this more perfect and entire *Union*, wherein your Majesty may say

Points where-  
in the Nations  
stand already  
united.

say *Majesty* *Opus* *moves*, to enter into the *parts* and *degrees* thereof, I think fit first to set down as in a brief *Table* in what points the *Nations* stand now at this present time already united, and in what *Points* yet still severed and divided, that your *Majesty* may the better see what is done, and what is to be done; And how that which is to be done is to be inferred upon that which is done.

The *Points*, wherein the *Nations* stand already united are;

In *Sovereignty*.

In the *Relative* thereof which is *Subjection*.

In *Religion*.

In *Continent*.

In *Language*.

And now lastly, by the Peace by your *Majesty* concluded with *Spain* in *Leagues* and *Confederacies*, for now both *Nations* have the same Friends and the same Enemies.

Yet notwithstanding there is none of the six points, wherein the *Union* is perfect, and Consummate; But every of them hath some scruple or rather Grain of separation enwrapped and included in them.

For the *Sovereignty*, the *Union* is absolute in your *Majesty* and your *Generation*, but if it should so be (which *God* of his infinite mercy defend) that your *Issue* should fail, then the descent of both *Realms* doth resort to the several *Lines* of the Several *Blouds* *Royal*.

Sovereignty  
Line Royal

For *Subjection*, I take the Law of *England* to be clear, (what the Law of *Scotland* is I know not) That all *Scottishmen* from the very Instant of your *Majesties* *Reign* began, are become *Denizens*, and the *Post-Nati* are naturalized Subjects of *England* for the time forwards: For by our *Laws* none can be an *Alien*, but he that is of another Allegiance, than our *Sovereign Lord the Kings*; For there be but two sorts of *Aliens*, whereof we find mention in our *Law*, an *Alien Ami*,

Subjection  
Obedience

Alien Naturalization



and an *alien Enemy*, whereof the former is a *Subject of State in Amity with the King*, and the latter a *Subject of a State in Hostility*. But whether he be one or the other, it is an *Essential Difference* unto the *Definition of an Alien*; if he be not of the *King's Allegiance*, as we see it evidently in the *President of Ireland*, who since they were *Subjects* to the *Crown of England*, have ever been *Inheritable* and capable as *Natural Subjects*, and yet not by any *Statute* or *Act of Parliament*, but merely by the *Common Law*, and the *Reason* thereof. So as there is no doubt, that every *Subject of Scotland*, was, and is in like *Plight* and *degree*, since your *Majesties* coming in, as if your *Majesty* had granted particularly your *Letters of Denization* or *Naturalization* to every of them, and the *Post Nati* wholly *Natural*. But then on the other side, for the time *Backwards*, and for those that were *Ante Nati*, the *Blond* is not by *Law* naturalized, so as they cannot take it by *descent* from their *Ancestors* without *Act of Parliament*. And therefore in this *Point* there is a *defect* in the *Union of Subjection*.

Religion,  
Church-Government

For matter of *Religion*, the *Union* is perfect in points of *Doctrine*, but in matter of *Discipline* and *Government*, it is imperfect.

Continent,  
Borders.

For the *Continent*, it is true, there are not natural *Boundaries* of *Mountains* or *Seas*, or *Navigable Rivers*, but yet there are *Badges* and *memorials* of *Borders*, of which point I have spoken before.

Language,  
Dialect.

For the *Language*, it is true, the *Nations* are *unius Labii*, and have not the first *Curse* of *Disunion*, which was *Confusion of Tongues*, whereby one understood not another. But yet the *Dialect* is differing, and it remaineth a kind of *Mark* of *Distinction*. But for that, *Tempori permittendum*, it is to be left to *Time*: For considering that both *Languages* do concur in the principal *Office* and *Duty* of a *Language*, which is to make a *Mans*, self understood; For the rest, it is rather to be accounted, (as it was said) a *Diversity* of *Dialect*, than of

*Language*:

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*Language*: And as I said in my first *Writing*, it is like to bring forth the enriching of one *Language*, by compounding and taking in the proper and significant words of either *Tongue*, rather than a continuance of two *Languages*.

For *Leagues* and *Confederacies*; It is true, that neither Nation is now in *Hostility* with any *State*, wherewith the other Nation is in *Amity*: But yet so, as the *Leagues* and *Treaties* have been concluded with either Nation respectively, and not with both jointly; which may contain some Diversity of *Articles* of straitness of *Amity* with one more than with the other.

Leagues, Confederacies, Treaties.

But many of these matters may perhaps be of that kind as may fall within that Rule, *In veste varietas fit, scissura non fit*.

Now to descend to the particular *Points* wherein the *Realms* stand severed and divided, over and besides the former six *Points* of *Separation*, which I have noted and placed as defects or Abatements of the six *Points* of the *Union*, and therefore shall not need to be repeated. The *Points* I say yet remaining I will divide into *External*, and into *Internal*.

The *External Points* therefore of the *separation* are four.

External points of the Separation and Union.

1. The several *Crowns*, I mean the *Ceremonial* and *Material Crowns*.
2. The second is the several *Names*, *Stiles*, or *Appellations*.
3. The third is the several *Prints* of the *Seals*.
4. The fourth is the several *Stamps* or *marks* of the *Coins* or *Monies*.

It is true that the *External* are in some respect and Parts much mingled, and interlaced with *Considerations Internal*, and that they may be as effectual to the true *Union*, which must be the work of Time, as the *Internal*, because they are operative upon the Concepts and Opinions of the *People*: the *Uniting* of whose hearts and affections is the life and true *End* of this *Work*.

The Ceremo-  
nial or Mate-  
rial Crowns.

For the *Ceremonial Crowns*, the Question will be whether there shall be framed one new Imperial *Crown of Britain* to be used for the times to come.

Also admitting that to be thought Convenient, whether in the frame thereof there shall not be some Reference to the *Crowns of Ireland and France*.

Also whether your *Majesty* should repeat or iterate your own *Coronation*, and your *Queens*, or only ordain that such new *Crown* shall be used by your *Posterity* hereafter.

The *Difficulties* will be in the Conceit of some *Inequality*, whereby the *Realm of Scotland* may be thought to be made an Accession unto the *Realm of England*. But that reflecteth in some circumstances: For the *Compounding* of the two *Crowns* is equal; The *Calling* of the new *Crown* the *Crown of Britain* is equal. Onely the *Place of Coronation*, if it shall be at *Westminster*, which is the *ancient, August, and Sacred place* for the *Kings of England*, may seem to make an *Inequality*: And again, if the *Crown of Scotland* be discontinued, then that *Ceremony* which I hear is used in the *Parliament of Scotland*, in the absence of the *Kings* to have the *Crowns* carried in solemnity, must likewise cease.

The Stiles  
and Names

For the *Name*, the main Question is, whether the *Contradicted Name*, of *Britain* shall be by your *Majesty* used, or the *Divided Names* of *England* and *Scotland*.

Admitting there shall be an Alteration; then the Case will require these inferiour Questions.

First, Whether the *Name* of *Britain* shall not only be used in your *Majesties Stile*, whether the entire *Stile* is recited, and in all other Forms the *divided Names* to remain, both of the *Realms*, and of the *People*; Or otherwise, that the very *divided Names* of *Realms* and *People* shall likewise be changed or turned into special or subdivided *Names* of the *General Name*; that is to say, for Example, Whether your *Majesty* in your *Stile* shall denominate your Self, *King of Britain, France and Ireland, &c.* And yet never-



nevertheless in any *Commission, Writ, or otherwise*, where your *Majesty* mentioneth *England or Scotland*, you shall retain the Ancient Names, as *Secundum Consuetudinem Regni nostri Angliæ*; or whether those Divided Names shall be for ever lost and taken away, and turned into the Subdivisions of *South-Britain*, and *North-Britain*, and the People to be *South-Britains*, and *North Britains*, and so in the Example aforesaid, the Tenour of the like Clause to run *Secundum Consuetudinem Britannicæ Australis*.

Also if the former of these shall be thought convenient, whether it were not better for your *Majesty* to take that Alteration of *Stile* upon you by *Proclamation*, as *Edward the Third* did the *Stile of France*, than to have it Enacted by *Parliament*.

Also in the *Alteration* of the *Stile*, whether it were not better to Transpose the *Kingdom of Ireland*, and put it immediately after *Britain*, and so place the *Islands* together, and the *Kingdom of France* being upon the Continent, last, in regard that these *Islands* of the *Western Ocean* seem by Nature and Providence an entire *Empire* in themselves, and also that there was never *King of England*, so entirely possessor of *Ireland* as your *Majesty* is; So as your *Stile* to run *King of Britain, Ireland, and the Islands Adjacent, and of France, &c.*

The *Difficulties* in this, have been already thoroughly beaten over, but they gather but to Two *Heads*.

The One, Point of *Honour*, and Love to the former *Names*.

The other, *Doubt*, lest the *Alteration* of the *Name* may induce and involve an *Alteration* of the *Laws and Policies* of the *Kingdom*; Both which, if your *Majesty* shall assume the *Stile* by *Proclamation*, and not by *Parliament*, are in themselves satisfied: For then the usual *Names* must needs remain in *Writs and Records*, the forms whereof cannot be altered but by *Act of Parliament*, and so the point of Honour satisfied. And again, your *Proclamation* altereth no *Law*, and

for the Scruple of a tacite or implied *Alteration of Laws*, likewise justified. But then it may be considered, whether it were not a *Form of the greatest Honour*, If the *Parliament*, though they did not enact it, yet should become *Suiters and Petitioners* to your *Majesty* to assume it.

The Seals.

For the *Seals*; that there should be but one *Great Seal of Britain*, and one *Chancellor*, and that there should onely be a *Seal in Scotland* for *Proceffes and ordinary Justice*; and that all *Patents of Grants of Lands*, or otherwise, as well in *Scotland*, as in *England*, should pass under the *Great Seal* here, kept about your *Person*; It is an *Alteration internal*, whereof I do not now speak.

But the *Question* in this Place is, whether the *Great Seals of England and Scotland* should not be changed into one, and the same *Form of Image and Supercription of Britain*, which nevertheless is requisite should be, with some one plain or manifest *Alteration*, lest there be a buz, and suspect that *Grants of Things in England*, may be passed by the *Seal of Scotland*, or e *converso*.

The Standards  
and Stamp,  
Moneys.

Allo, whether this *Alteration of Form*, may not be done without *Act of Parliament*, as the *Great Seals* have used to be heretofore changed as to their *Impressions*.

For the *Moneys*, as to the *Real and Internal Consideration* thereof, the *Question* will be, whether your *Majesty* should not continue two *Mints*, (which the *Distance of Territory* considered) I suppose will be of Necessity.

Secondly, how the *Standards* (if it be not already done, as I hear some doubt made of it in popular Rumor) may be reduced into an exact proportion for the time to come. And likewise the *Computation, Tale or Valuation* to be made exact for the *Moneys* already beaten.

That done, the last *Question* is, (which is only proper to this place) whether the *Stamp or the Image and Supercription of Britain* for the time for wards should not be made the self same in both places, without any difference at all.

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A matter also which may be done as per Law's, by your  
*Majesties Prerogative without Act of Parliament.*  
 These Points are *Points of Demonstration Ad faciendum po-*  
*pulum* but to much the more they go to the *Root* of your  
*Majesties Intention* which is to imprint and inculcate into  
 the Hearts and Heads of the *People*, that they are one  
*People and one Nation*.  
 In this kind also, I have heard it pass abroad in Speech  
 of the *Bractian* of some new Order of *Knighthood*, with a Re-  
 ference to the *Union*, and an Oath appropriate thereunto,  
 which is a *Point* likewise, deserves a Consideration. So  
 much for the *External Points*.

Internal  
 Points of Uni-  
 on.

The *Internal Points of Separation*, are as followeth.

1. Several *Parliaments*.
2. Several *Councils of Estate*.
3. Several *Officers of the Crown*.
4. Several *Nobilities*.
5. Several *Laws*.
6. Several *Courts of Justice, Trials, and Processes*.
7. Several *Receipts and Finances*.
8. Several *Admiralties and Merchandizings*.
9. Several *Freedoms and Liberties*.
10. Several *Taxes and Imposts*.

As touching the several *States Ecclesiastical*, and the several  
*Mints and Standards*, and the several *Articles and Trea-*  
*ties and Intercourse with Forraign Nations*, I touched them  
 before.

In these *Points* of the straight and more inward *Union*,  
 there will intervene one principal *Difficulty* and *Impediment*  
 growing from that *Root*, which *Aristotle* in his *Politicks* mak-  
 keth to be the *Root* of all *Division* and *Dissention* in *Com-*  
*mune Wealths*, and that is *Equality* and *Inequality*. For the  
 Realm

*Bestia* of *Switzerland* is now an Ancient and Noble *Reule*,  
 substantive of it self. But when this *Istane* shall be made  
*Britany*, then *Scotland* is no more to be considered as *Scot-*  
*land*, but as a part of *Britain*; no more than *England* is to  
 be considered as *England*, but as a Part likewise of *Britain*,  
 and consequently neither of those are to be considered as  
 things entire of themselves, but in the Proportion that they  
 bear to the whole. And therefore let us imagine (*Nam id*  
*ante possimus, quod nunc non possumus*) that *Britain* had ne-  
 ver been divided, but had ever been one *Kingdom*, then  
 that part of *Soil*, or *Territory*, which is comprehended un-  
 der the Name of *Scotland*, is in quantity (as I heard it  
 esteemed, how truly I know not) not past a Third Part  
 of *Britain*; and that Part of *Soil* or *Territory* which is  
 comprehended under the Name of *England*, is Two Parts  
 of *Britain*, leaving to speak of any Difference of *Wealth*  
 or *Population*, and speaking only of *Quantity*. So then if  
 for Example *Scotland* should bring to *Parliament* as much  
*Nobility* as *England*, then a Third Part should countervail  
 Two Parts; *Nam si inequalibus aequalia addas omnia erant*  
*aequalia*. And this I protest before God and your Majesty,  
 I do speak not as a Man born in *England*, but as a Man born  
 in *Britain*. And therefore to descend to the Particulars.

a. Parliament.

For the *Parliaments*, the Consideration of that *Point* will  
 fall into Four Questions.

1. The First, What Proportion shall be kept between  
 the *Votes* of *England*, and the *Votes* of *Scotland*.
2. The Second, Touching the *Manner of Proposition*, ex-  
 posing of the *Parliament* of Causes there to be handled;  
 which in *England* is used to be done immediately by any  
 Member of the *Parliament*, or by the *Prolocutor*, and  
 in *Scotland* is used to be done immediately by the  
*Lords of Articles*, whereof the one Form seemeth to have  
 more *Liberty*, and the other more *Gravity*, and *Maturity*,  
 and therefore the Question will be, whether of those shall  
 yield

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yield to other, or whether there should not be a Mixture of both, by some Commissions precedent to every *Parliament* in the Nature of *Lords of the Articles*, and yet not excluding the liberty of propounding in full *Parliament* afterwards.

3. The Third, Touching the *Orders of Parliament*, how they may be compounded, and the best of either taken.

4. The Fourth, How those which by *Inheritance* or otherwise, have *Offices of Honour* and *Ceremony* in both the *Parliaments*, as the *Lord Steward* with us, &c. may be satisfied, and *Duplicity* accommodated.

For the *Councils of Estate*, while the *Kingdoms* stand divided, it should seem necessary to continue several *Councils*, but if your *Majesty* should proceed to a strict *Union*, then howsoever your *Majesty* may establish some *Provincial Councils* in *Scotland*, as there is here of *Tork*, and in the *Marches of Wales*, yet the Question will be, whether it will not be more convenient for your *Majesty*, to have but one *Privy Council* about your *Person*, whereof the *Principal Officers* of the *Crown* of *Scotland* to be for *Dignity* sake, howsoever their abiding and remaining may be as your *Majesty* shall imploy their Service. But this Point belongeth meerly and wholly to your *Majesties* Royal Will and Pleasure.

2 Councils  
of Estate.

For the *Officers* of the *Crown*, the Consideration thereof will fall into these Questions.

3. Officers  
of the Crown.

First, In regard of the *Latitude* of your *Kingdom*, and the *Distance* of *Place*, whether it will not be matter of necessity to continue the several *Officers*, because of the *Impossibility* for the Service to be performed by one.

The Second, Admitting the *Duplicity* of *Officers* should be continued, yet whether there should not be a difference that one should be the *Principal Officer*, and the other to be but Special and subaltern: As for example, one to be *Chancellor of Britain*, and the other to be *Chancellor*

C

with

with some special Addition, as here of the *Dutchy*, &c.

The Third, If no such Speciality or Inferiority be thought fit, then whether both *Officers* should not have the *Title* and the *Name* of the whole *Island* and *Precincts*: As the *Lord Chancellor of England* to be *Lord Chancellor of Britain*; And the *Lord Chancellor of Scotland*, to be *Lord Chancellor of Britain*, but with several *Proviso's*, that they shall not intromit themselves, but within their several *Precincts*.

4. *Nobilities*. For the *Nobilities*, the Consideration thereof will fall into these Questions.

The First of their *Votes in Parliament*, (which was touched before) what Proportion they shall bear to the *Nobility of England*, wherein if the Proportion which shall be thought fit, be not full, yet your *Majesty* may out of your *Prerogative* supply it; for although you cannot make fewer of *Scotland*, yet you may make more of *England*.

The Second is touching the *Place*, and *Precedence* wherein to Marshal them according to the *Precedence of England* in your *Majesties Stile*, and according to the *Nobility of Ireland*; that is, all *English Earls first*, and then *Scottish* will be thought unequal for *Scotland*. To Marshal them according to *Antiquity*, will be thought unequal for *England*. Because I hear the *Nobility* is generally more Ancient: And therefore the Question will be, Whether the indifferente way were not to take them interchangeably: As for Example, First, the Ancient *Earl of England*; and then the Ancient *Earl of Scotland*; and so *Alternis Vicibus*.

5. *Laws*.

For the *Laws*, to make an entire and perfect *Union*, it is a matter of great difficulty and length, both in the *Collecting* of them, and in the *Passing* of them. For First, as to the *Collecting* of them, there must be made by the *Lawyers* of either *Nation*, a *Digest*, under *Titles* of their several *Laws* and *Customs*, as well *Common Laws*, as *Statutes*, that they may be *Collated* and *Compared*, and that the *Diversities*

*ties*



ties may appear, and be discerned of. And for the *Passing* of them, we see by experience, that *Patrias mos* is dear to all Men, and that Men are bred and nourished up in the Love of it, and therefore how harsh *Changes* and *Innovations* are. And we see likewise what Disputation and Argument the *Alteration* of some one *Law* doth cause and bring forth, how much more the Alteration of the whole *Corps* of the *Law*? Therefore the first *Question* will be, Whether it be not good to proceed by Parts, and to take that that is most necessary, and leave the rest to Time? The Parts therefore, or Subject of *Laws*, are for this Purpose fittest distributed, according to that ordinary *Division* of *Criminal* and *Civil*, and those of *Criminal Causes*, into *Capital* and *Penal*.

The second *Question* therefore is, allowing the General *Union* of *Laws* to be too great a Work to embrace, whether it were not convenient that *Cases Capital* were the same in both *Nations*, I say the *Cases*, I do not speak of the *Proceedings* or *Trials*; That is to say, whether the same *Offences* were not fit to be made *Treason* or *Felony* in both places?

The third *Question* is, whether *Cases Penal*, though not *Capital*, yet if they concern the *Publick State*, or otherwise the *Discipline* of *Manners*, were not fit likewise to be brought into one *Degree*, as the *Case* of *Misprison* of *Treason*, The *Case* of *Premunire*, the *Case* of *Fugitives*, the *Case* of *Incest*, the *Case* of *Simony*, and the rest.

But the *Question* that is more urgent than any of these, is, whether the *Cases*, at the least, be they of a higher or inferior degree, wherein the *Fact* committed, or *Act* done in *Scotland*, may prejudice the *State* and *Subjects* of *England*, or *e converso*, are not to be reduced into one *Uniformity*, of *Law* and *punishment*; as for example, a *Perjury* committed in a *Court* of *Justice* in *Scotland*, cannot be prejudicial in *England*, because *Depositions* taken in *Scotland*, cannot be produced and used here in *England*. But a *Forgery* of a *Deed* in *Scotland*, I mean with a false *Date* of *England* may be used

and given in Evidence in *England*. So likewise the depopulating of a *Town* in *Scotland*, doth not directly prejudice the *State of England*: But if an *English Merchant* shall carry Silver and Gold into *Scotland* (as he may) and thence transport it into forraign parts, this prejudiceth the *State of England*, and may be an Evasion to all the *Laws of England*, ordained in that *Case*: And therefore had need to be bridled with as severe a *Law* in *Scotland*, as is here in *England*.

Of this kind there are many *Laws*.

The *Law* of the 50th. of *Rich.* the 2. of going over without licence, if there be not the like *Law* in *Scotland* will be frustrated and evaded: For any *Subject* of *England* may go first into *Scotland*, and thence into forraign parts.

So the *Laws* prohibiting Transportation of sundry *Commodities*, as Gold, and Silver, Ordnance, Artillery, Corn, &c. if there be not a Correspondence of *Laws* in *Scotland*, will in like manner be deluded and frustrate: For any *English Merchant* or *Subject* may carry such *Commodities* first into *Scotland*, as well as he may carry them from Port to Port in *England*. And out of *Scotland* into Forraign Parts, without any peril of *Law*.

So *Libels* may be devised and written in *Scotland*, and published and scattered in *England*.

*Treasons* may be plotted in *Scotland* and executed in *England*.

And so in many other *Cases*, if there be not the like Severity of *Law* in *Scotland*, to restrain *Offences*, that there is in *England*; (whereof we are here ignorant whether there be or no) It will be a Gap or stop even for *English Subjects* to escape and avoid the *Laws of England*.

But for *Treasons* the best is that by the *Statute* of 26. *K. Hen.* the 8. *Cap.* 13. any *Treason* committed in *Scotland*, may be proceeded with in *England* as well as *Treasons* committed in *France*, *Rome*, or elsewhere.



For Courts of Justice, Trials, Process, and other Administration of Laws, to make any Alteration in either Nation, it will be a Thing so new and unwonted to either People; That it may be doubted it will make the Administration of Justice, (Which of all other Things ought to be known, and certain as the beaten way) to become intricate and uncertain: And besides, I do not see that the Severalty of Administration of Justice, though it be by Court Sovereign of last resort; (mean without Appeal, or Error,) is any Impediment at all to the Union of a Kingdom: As we see by Experience, in the several Courts of Parliament, in the Kingdom of France: And I have been always of Opinion, that the Subjects of England do already fetch Justice somewhat far off, more than in any Nation that I know, the largeness of the Kingdom considered, though it be holpen in some part by the Circuits of the Judges; And the two Councils at York, and the Marches of Wales established.

6 Courts of Justice, and Administration of Laws.

But it may be a Question, whether as *Commune Vinculum*, of the Justice of both Nations; your Majesty should not erect some Court about your person in the Nature of the Grand Council of France: To which Court you might by way of Evocation draw Causes from the ordinary Judges of both Nations; For so doth the French King from all the Courts of Parliament in France; many of which are more remote from Paris than any part of Scotland is from London.

For Receipts and Finances, I see no Question will arise; In regard it will be Matter of Necessity to establish in Scotland, a Receipt of Treasure, for Payments, and Erogations to be made in those parts: And for the Treasure of Spare, in either Receipts the Customs thereof may well be several; considering by your Majesties Commandment, they may be at all times removed, or disposed according to your Majesties Occasions.

7 Receipts, Finances, and Patrimonies of the Crown.

For

For the *Patrimonies* of both *Crowns*, I see no Question will arise; Except your *Majesty* would be pleased to make one compounded *Annexation*, for an Inseparable *Patrimony* to the *Crown* out of the *Lands* of both *Nations*; And so the like for the *Principality* of *Britain*, and for other *Appennages*, of the rest of your *Children*; Erecting likewise such *Dutchie*s and *Honours* compounded of the Possessions of both *Nations*, as shall be thought fit.

8 Admiralty,  
Navy, and  
Merchandizing.

For *Admiralty* or *Navy*, I see no great Question will arise: For I see no Inconvenience for your *Majesty* to continue *Shipping* in *Scotland*. And for the *Jurisdications* of the *Admiralties*, and the Profit, and Casualties of them, they will be respective unto the *Coasts*, over against which the Seas lye, and are situated; As it is here with the *Admiralties* of *England*.

And for *Merchandizing*, it may be a Question, whether that the *Companies* of the *Merchant Adventurers*, of the *Turkie Merchants* and the *Muscovy Merchants*, (if they shall be continued,) should not be compounded of *Merchants* of both *Nations*, *English* and *Scottish*. For to leave *Trade* free in the one *Nation*, and to have it restrained in the other, may percase breed some *Inconveniency*.

9 Freedom  
and Libertie.

For *Freedoms* and *Liberties* the *Charters* of both *Nations* may be revived: And of such *Liberties* as are agreeable, and convenient for the *Subjects*, and *Peop'e* of both *Nations*, one *Great Charter* may be made, and confirmed to the *Subjects* of *Britain*; And those *Liberties* which are peculiar or proper to either *Nation*, to stand in State as they do.

10. Taxes and  
Imposts.

But for *Imposts* and *Customs*, it will be a great *Question* how to accomodate them, and reconcile them: For if they be much easier in *Scotland* than they be here in *England*, (which is a Thing I know not) then this *Inconvenience* will follow; That the *Merchants* of *England*, may unlade in the *Ports* of *Scotland*; and this *Kingdom* to be served from thence

thence, and your *Majesties Customs* abated.

And for the Question, whether the *Scottish Merchants* should pay *Strangers Custom* in *England*, that resteth upon the *Point of Naturalization*, which I touched before.

Thus have I made your *Majesty* a brief and naked *Memorial* of the *Articles* and *Points* of this great *Cause*, which may serve only to excite and stir up your *Majesties Royal Judgment*, and the *Judgment of Wiser Men*, whom you will be pleased to call to it: Wherein I will not presume to perswade or dissuade any thing; Nor to interpose my own Opinion; But do expect Light from your *Majesties Royal Directions*, unto the which I shall ever submit my *Judgment*, and apply my *Travail*: And I most humbly pray your *Majesty* in this which is done to pardon my Errors, and to cover them with my good Intention and Meaning, and Desire I have to do your *Majesty Service*, and to acquit the Trust that was reposed in me, and chiefly in your *Majesties* benign and gracious Acceptation.

F I N I S.